

#### IV. REMARKS

I. Claims 1, 2, 5, 7, 8, 11, 12, 14, 15, 18, 20, 21, 24 and 27 are not properly rejected under 35 U.S.C. § 102(e) as being anticipated by Van Tichelen.

The Examiner has rejected Claims 1, 2, 5, 7, 8, 11, 12, 14, 15, 18, 20, 21, 24 and 27 under 35 U.S.C. § 102(e) as being anticipated by Van Tichelen.

For a claim to be anticipated under 35 U.S.C. § 102, each and every claim limitation must be found within the cited prior art reference. M.P.E.P. § 2131. Applicant respectfully submits that not each and every claim limitation of Applicant's claimed invention is found within the Van Tichelen reference. Accordingly, Applicant respectfully traverses these claim rejections.

Van Tichelen teaches a speech controlled computer user interface for managing communications between a user and one or more computer applications.

The user interface has a speech layer, an utterance layer, and a discourse layer. The speech layer is in communication with the user and converts between speech messages and text messages. The utterance layer is in communication with the speech layer, and converts between text messages and semantic meaning messages. The discourse layer is in communication with the utterance layer and the at least one application program, and processes messages from the user and the at least one application program, and generates responsive messages to the user and the at least one application program.

See Abstract of Van Tichelen.

Van Tichelen also discloses that it supports barge-in capability. *See, e.g.*, Col. 14, lines 55-62. However, the Examiner has not cited to any teachings which reflect that Van Tichelen teaches barge-in with the capabilities set forth in Applicant's claimed invention. The disclosure concerning barge-in capability in Van Tichelen is very limited, and there do not appear to be any teachings which reflect that the barge-in capability has any more functionality than what was known in the prior art described above. For example, barge-in capability of Van Tichelen may be limited to a system which

interrupts the prompt upon receiving any user input, including non-responsive noise. Van Tichelen may also only support barge-in for "small vocabulary" applications. The Examiner has not offered any evidence which reflects that Van Tichelen teaches barge-in with any more capabilities than these prior art implementations.

As stated above, the teachings in Van Tichelen relating to barge-in functionality are very limited. However, based on what is disclosed, it appears that Van Tichelen actually teaches away from barge-in capability which terminates a prompt based on "*text satisfying one or more conditions*," as set forth in Applicant's claimed invention. For example, Van Tichelen refers to conversation management as being both "event driven" and "data driven." Van Tichelen then states: "Being event driven supports features such as . . . barge-in capability, time outs . . . . From a data driven perspective, conversation data 703 uses data frames and slots with verification and confirmation." Col. 14, lines 55-60 (emphasis added). "Conversation data 703 related to open instances of dialogue is maintained. Each user conversation is modeled as a sequence of several smaller dialogues. As depicted in Fig. 7, this conversation data 703 is kept in the form of data frames 704 for each dialogue which are managed in a frame stack from which one dialogue may call another. Each dialogue data frame 704 has various specified slots in which relevant data is maintained with slot values being in the form of lists with an associated belief strength – unknown, ambiguous, unconfirmed, confirmed, etc." Col. 14, lines 28-37 (emphasis added). Thus, from these teachings, Van Tichelen appears to indicate that its barge-in capability only occurs based on some event occurring (*e.g.*, any input or response from a user) and is not data driven (based on an analysis of the actual content of the user's conversation).

With regard to prompts, Van Tichelen merely teaches that they may be modal (a dialogue cannot continue without input) or non-modal (a dialogue can continue without input). *See* Col. 15, lines 4-8. Van Tichelen does not disclose that the input has to satisfy any particular conditions in

order for the dialogue to continue in response to a modal prompt. Van Tichelen also does not disclose having the playing out of the prompt suspended if certain conditions are satisfied. Having a non-specified input is the only requirement disclosed for the dialogue to continue; suspension of the prompt before it is finished playing based on particular input conditions being satisfied is not discussed.

Thus, Van Tichelen does not teach each and every limitation of Applicant's claimed invention. For example, Van Tichelen does not teach "*performing speech recognition on said audio input to determine a corresponding text*" and then "*terminating the playing out of the prompt*" based on "*said text satisfying said one or more conditions, otherwise, continuing the playing out of said prompt.*" In fact, Van Tichelen is directed to having a user begin a dialogue after the system is initialized; it is not directed to having the user respond to a prompt. *See, e.g.*, Col. 12, line 64 – Col. 13, line 40, where the user calls into an e-mail application by telephone and asks the system for new e-mail. Furthermore, as discussed above, Van Tichelen does not teach suspension of the prompt before it is finished playing based on particular input conditions being satisfied.

The Examiner alleges that she: "has shown that the state of the art of barge-in systems is a system that accurately recognizes words that satisfy desired conditions and turn off the prompt being generated. An example of this is the newly cited patent: Brown et al (6,604,075) which shows in column 4, line 40, the use of a 'barge in' parameter; where a user can interrupt with an answer before a list or prompt is finished playing." However, Applicant respectfully submits that the Examiner has not cited to any teachings in the Brown '075 patent that provide for "performing speech recognition on said audio input to determine a corresponding text" and then "terminating the playing out of the prompt" based on "said text satisfying said one or more conditions, otherwise, continuing the playing out of said prompt."

The Brown '075 patent relates to a "web-based voice dialog interface for use in communicating dialog information between a user at a client machine and one or more client servers coupled to the client machine via the Internet or other computer network." *See* Abstract. The Brown '075 patent discloses use of "special\_tags" which have meaning to voice browsers. One example of such a special tag is "BARGEIN." *See* Column 4. This is the extent of Brown's teachings relating to a "bargе in" feature. For example, the Examiner has not shown any teachings in Brown directed to "terminating the playing out of the prompt" based on "said text satisfying said one or more conditions, otherwise, continuing the playing out of said prompt." Thus, the Examiner has not shown that the Brown barge-in feature has anymore capabilities than the prior art systems discussed above. Accordingly, Applicant respectfully submits that the Examiner's statement that "the state of the art of barge-in systems is a system that accurately recognizes words that satisfy desired conditions and turn off the prompt being generated" is not supported and instead is a conclusory statement. *See In re Sang-Su Lee*, 277 F.3d 1338, 1343-44 (Fed. Cir. 2002), in which the Federal Circuit noted that conclusory statements about what is basic knowledge by themselves do not adequately support a determination of unpatentability.

**II. Claims 3, 4, 6, 9, 10, 13, 16, 17, 19, 22, 23 and 26 were not properly rejected under 35 U.S.C. § 103(a).**

The Examiner further rejected Claims 3, 4, 6, 9, 10, 13, 16, 17, 19, 22, 23 and 26 under 35 U.S.C. 103(a) as being unpatentable over Van Tichelen in view of U.S. Patent No. 6,604,075 to Brown ("Brown"). Applicant submits that Claims 3, 4, 6, 9, 10, 13, 16, 17, 19, 22, 23 and 26 are allowable over these patents for at least the same reasons discussed above. Furthermore, Applicant also respectfully submits that the Examiner has not met the Examiner's burden of factually supporting the alleged motivation to combine the two patents.

It is the Examiner's burden to factually support any prima facie conclusion of obviousness. The Examiner's duty may not be satisfied by engaging in impermissible hindsight; any conclusion of obviousness must be reached on the basis of facts gleaned from the prior art. The preferred evidence to be offered by the Examiner is an express teaching to modify/combine which is set forth within objectively verifiable sources of prior art. See M.P.E.P. §§ 2141-2144. Applicant respectfully submits that the Examiner has not satisfied the burden of factually supporting the alleged motivation to combine the Van Tichelen and Brown patents. For example, the Examiner has not cited to any express teachings within these two patents which support a motivation to combine these patents to achieve Applicant's claimed invention. Therefore, Applicant submits that the Examiner has not established a prima facie case of obviousness, and Claims 3, 4, 6, 9, 10, 13, 16, 17, 19, 22, 23 and 26 should therefore be allowed.

**III. Claims 12 and 25 are not properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Tichelen in view of Garner.**

The Examiner further rejected claims 12 and 25 under 35 U.S.C. 103(a) as being unpatentable over Van Tichelen in view of U.S. Patent No. 6,427,134 to Garner ("Garner"). Applicant submits that claims 12 and 25 are allowable over these patents for at least the same reasons discussed above. Furthermore, Applicant also respectfully submits that the Examiner has not met the Examiner's burden of factually supporting the alleged motivation to combine the two patents.

It is the Examiner's burden to factually support any prima facie conclusion of obviousness. The Examiner's duty may not be satisfied by engaging in impermissible hindsight; any conclusion of obviousness must be reached on the basis of facts gleaned from the prior art. The preferred evidence to be offered by the Examiner is an express teaching to modify/combine which is set forth within objectively verifiable sources of prior art. See M.P.E.P. §§ 2141-2144. Applicant respectfully submits that the Examiner has not satisfied the burden of factually supporting the alleged motivation

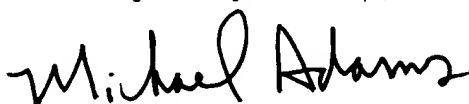
to combine the Van Tichelen and Garner patents. For example, the Examiner has not cited to any express teachings within these patents which support a motivation to combine these patents to achieve Applicant's claimed invention. Therefore, Applicant submits that the Examiner has not established a prima facie case of obviousness, and Claims 12 and 25 should therefore be allowed.

More particularly, Applicant submits that the Examiner has not cited to any teachings that would support a motivation to combine the voice activity detector especially suitable for use in mobile phones which may be required to operate in noisy environments, as taught in Garner, with the speech controlled computer user interface which communicates between a user and an application program, as taught by Van Tichelen. Garner's voice activity detector distinguishes between voice and speech, and if the signal is noise it is not transmitted. *See Abstract.* Garner does not distinguish between noise and speech to determine "*whether to continue or terminate playing out of said prompt.*" Thus, Applicant submits that the Examiner has: (1) not cited to any teachings that would support a motivation to combine the teachings of Garner and Van Tichelen; and (2) not cited to teachings that would achieve all of the elements of Applicant's claimed invention.

## V. CONCLUSION

In view of the remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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## CERTIFICATION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence (along with any item referred to as being enclosed herewith) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 7, 2004.



Signature